

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Isaac Forman	Team: Squad #15	CCRB Case #: 201707808	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/18/2017 7:00 PM	Location of Incident: In front of 223 Bainbridge Street	Precinct: 81	18 Mo. SOL 3/18/2019	EO SOL 3/18/2019	
Date/Time CV Reported Wed, 09/20/2017 9:14 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 09/20/2017 9:14 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Griffith	00258	951791	077 PCT
2. SDS David Cheesewright	01990	913752	INT CIS
3. POM Gerard Fenton	06680	951725	077 PCT
4. POM Kellan Oneill	10409	952069	PSA 3
5. An officer			Unknown
6. Officers			Unknown

Officer(s)	Allegation	Investigator Recommendation
A.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.	
B.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.	
C.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.	
D.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.	
E.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton threatened an individual with the use of force.	
F.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton threatened an individual with the use of force.	
G.POM Gerard Fenton	Discourtesy: Police Officer Gerard Fenton spoke discourteously to § 87(2)(b)	
H.POM Gerard Fenton	Discourtesy: Police Officer Gerard Fenton spoke discourteously to § 87(2)(b)	
I.POM Gerard Fenton	Discourtesy: Police Officer Gerard Fenton spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.POM Gerard Fenton	Discourtesy: Police Officer Gerard Fenton spoke discourteously to § 87(2)(b)	
K.POM Gerard Fenton	Discourtesy: Police Officer Gerard Fenton spoke discourteously to an individual.	
L.POM Gerard Fenton	Discourtesy: Police Officer Gerard Fenton spoke discourteously to an individual.	
M.POM Christophe Griffith	Abuse: Police Officer Christopher Griffith drew his gun.	
N.POM Kellan Oneill	Abuse: Police Officer Kellan Oneill drew his gun.	
O.SDS David Cheesewright	Abuse: Sergeant David Cheesewright drew his gun.	
P.POM Gerard Fenton	Force: Police Officer Gerard Fenton pointed his gun at § 87(2)(b)	
Q. An officer	Force: An officer pointed his gun at § 87(2)(b)	
R.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton searched an individual's bag.	
S.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton searched § 87(2)(b) s bag.	
T.SDS David Cheesewright	Discourtesy: Sergeant David Cheesewright spoke discourteously to § 87(2)(b)	
U.SDS David Cheesewright	Abuse: Sergeant David Cheesewright threatened to arrest § 87(2)(b)	
V.POM Christophe Griffith	Abuse: Police Officer Christopher Griffith frisked § 87(2)(b)	
W.POM Christophe Griffith	Abuse: Police Officer Christopher Griffith frisked § 87(2)(b)	
X.POM Christophe Griffith	Abuse: Police Officer Christopher Griffith searched § 87(2)(b)	
Y.POM Christophe Griffith	Abuse: Police Officer Christopher Griffith questioned § 87(2)(b)	
Z.POM Christophe Griffith	Abuse: Police Officer Christopher Griffith frisked an individual.	
2A.POM Christophe Griffith	Abuse: Police Officer Christopher Griffith searched an individual.	
2B.SDS David Cheesewright	Abuse: Sergeant David Cheesewright frisked § 87(2)(b)	
2C.SDS David Cheesewright	Abuse: Sergeant David Cheesewright frisked an individual.	
2D.POM Gerard Fenton	Force: Police Officer Gerard Fenton used physical force against § 87(2)(b)	
2E. Officers	Force: Officers used physical force against § 87(2)(b)	

Case Summary

On September 20, 2017, § 87(2)(b) filed this complaint with the CCRB via the call processing system.

On September 18, 2017, at approximately 7:00pm, Sgt. David Cheesewright, PO Christopher Griffith, PO Gerard Fenton, and PO Kellan Oneill—all, at the time, working out of the 84th Precinct's Field Intelligence Office—responded to the vicinity of 223 Bainbridge Street in Brooklyn in regards § 87(2)(a), § 87(2)(b), § 87(2)(c), § 87(2)(d). As they approached, PO Fenton allegedly threatened to shoot § 87(2)(b). § 87(2)(b) known as § 87(2)(b) and § 87(2)(b) known as § 87(2)(b) and used the word “fuck” multiple times (**Allegations A through L: Abuse of Authority/Discourtesy-** § 87(2)(g)). PO Griffith, PO Oneill and Sgt. Cheesewright allegedly drew their guns as well (**Allegations M, N, and O: Abuse of Authority-** § 87(2)(g)). PO Fenton then allegedly pointed his gun at § 87(2)(b)'s head (**Allegation P: Force-** § 87(2)(g)). An unidentified officer allegedly pointed two guns at § 87(2)(b)'s head (**Allegation Q: Force-** § 87(2)(g)). PO Fenton then allegedly searched § 87(2)(b) and § 87(2)(b) bags, which were on the sidewalk (**Allegations R and S: Abuse of Authority-** § 87(2)(g)). § 87(2)(b) approached the incident location and Sgt. Cheesewright allegedly threatened her by stating “Do you want to take the fucking charge for the gun?” (**Allegations T and U: Abuse of Authority/Discourtesy-** § 87(2)(g)). PO Griffith frisked § 87(2)(b) (**Allegation V: Abuse of Authority-** § 87(2)(g)). PO Griffith then frisked, searched, and questioned § 87(2)(b) (**Allegations W, X, and Y: Abuse of Authority-** § 87(2)(g)). PO Griffith then frisked and searched another individual (**Allegations Z and 2A: Abuse of Authority-** § 87(2)(g)). Sgt. Cheesewright frisked § 87(2)(b) and then another individual (**Allegation 2B and 2C: Abuse of Authority-** § 87(2)(g)). PO Fenton then allegedly used physical force against § 87(2)(b) (**Allegation 2D: Force-** § 87(2)(g)). While inside the police vehicle, unidentified officers used physical force against § 87(2)(b) (**Allegation 2E:** § 87(2)(g)).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.

Allegation (B) Abuse of Authority: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.

Allegation (C) Abuse of Authority: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.

Allegation (D) Abuse of Authority: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.

Allegation (E) Abuse of Authority: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.

Allegation (F) Abuse of Authority: Police Officer Gerard Fenton threatened § 87(2)(b) with the use of force.

Allegation (G) Discourtesy: Police Officer Gerard Fenton spoke discourteously to § 87(2)(b)

Allegation (H) Discourtesy: Police Officer Gerard Fenton spoke discourteously to § 87(2)(b)

Allegation (I) Discourtesy: Police Officer Gerard Fenton spoke discourteously to § 87(2)(b)

Allegation (J) Discourtesy: Police Officer Gerard Fenton spoke discourteously to § 87(2)(b)

Allegation (K) Discourtesy: Police Officer Gerard Fenton spoke discourteously to

§ 87(2)(b)

Allegation (L) Discourtesy: Police Officer Gerard Fenton spoke discourteously to

§ 87(2)(b)

Both § 87(2)(b) and § 87(2)(b) alleged that as PO Fenton was approaching, PO Fenton threatened to shoot the group of individuals if they ran and used discourteous language.

§ 87(2)(b) testified that, while he and four acquaintances were seated on the stoop of 223 Bainbridge Street in Brooklyn, the four officers exited their vehicle and approached the group. As PO Fenton approached, he stated “Get the fuck down. Please don’t run. I will shoot you. Don’t make me shoot you.” § 87(2)(b) also testified that PO Fenton told him to “get the fuck on the ground,” two additional times and at told him to “shut the fuck up” multiple times (BR 01).

§ 87(2)(b) testified that he and five acquaintances were on the stoop in front of 223 Bainbridge Street in Brooklyn when four officers exited their vehicle and approached. § 87(2)(b) testified that as PO Fenton approached he stated, “Get the fuck on the floor. Nobody move or I’m going to shoot you. If you run I’m going to shoot you.” § 87(2)(b) also testified that, later in the incident, PO Fenton stated to § 87(2)(b) “Don’t fucking move, I’ll blow your head off.” (BR 02)

PO Fenton testified that as he was approaching the group, he instructed § 87(2)(b) to drop the bag and get to the ground. He testified that he could not recall if he used the word “fuck,” while doing so. PO Fenton further stated that he could not recall if he used any profanity during this incident. PO Fenton denied threatening to shoot any individuals. PO Fenton further testified that he did not interact with any of the civilians other than § 87(2)(b) (BR 03).

None of the other officers on scene recalled hearing any officer threaten to shoot the individuals. Nor could any officer recall any profanity being used (BR 04, 05, 06).

§ 87(2)(g)

Allegation (M) Abuse of Authority: Police Officer Christopher Griffith drew his gun.

Allegation (N) Abuse of Authority: Police Officer Kellan Oneill drew his gun.

Allegation (O) Abuse of Authority: Sergeant David Cheesewright drew his gun.

Allegation (P) Force: Police Officer Gerard Fenton pointed his gun at § 87(2)(b)

It is undisputed that PO Fenton and PO Griffith had their guns drawn during this incident. It is disputed whether PO Fenton pointed his gun specifically at § 87(2)(b) and whether PO Oneill and Sgt. Cheesewright drew their guns.

§ 87(2)(b) testified that, as the officers approached they all had their guns drawn. When PO Fenton reached § 87(2)(b) he pointed his gun directly to the back of § 87(2)(b)'s head. § 87(2)(b) could feel the gun pressed into his head. The gun remained pointed at the back of his head for approximately two to three seconds (BR 01).

§ 87(2)(b) testified that as the officers approached, all four had their guns drawn. § 87(2)(b) further testified that an officer, § 87(2)(b) could not identify which officer it was, approached § 87(2)(b) and pointed his gun directly at § 87(2)(b)'s back. § 87(2)(b) also testified that later, PO Fenton pointed his gun directly at § 87(2)(b)'s back (BR 02).

§ 87(2)(a), § 87(2)(b)
§ 87(2)(e), § 87(2)(f), § 87(2)(b)

PO Griffith testified that he pointed his gun directly at the ground and denied ever pointing his gun at any individual. PO Griffith testified that PO Fenton also had his gun drawn when they exited the vehicle, but PO Griffith could not tell where it was pointed. PO Oneill and Sgt. Cheesewright did not have their guns drawn. PO Griffith denied observing any officer point their gun specifically at any individual's head (BR 04).

PO Fenton testified that his partners and he responded to the area around 223 Bainbridge Street in Brooklyn in regards to information that PO Griffith § 87(2)(g)

§ 87(2)(e), § 87(2)(f)

PO Fenton recalled that there was a physical description of the suspect provided but could only recall that it included that the suspect was a black male. After the police vehicle stopped, PO Fenton immediately exited and drew his gun. PO Fenton testified that he drew his gun for his safety and that of his partners. He further testified that he drew his gun because of the nature of the assignment included a gun and due to the likelihood that he was approaching an armed individual. PO Fenton testified that he immediately approached the male fitting the description, identified as § 87(2)(b). As he did, he pointed his gun at § 87(2)(b) at center mass. PO Fenton testified that he did so for the same reason that he drew his gun. PO Fenton holstered his gun either immediately before or after § 87(2)(b) was handcuffed. He estimated that his gun was pointed at § 87(2)(b) for approximately one minute. PO Fenton could not recall if his partners drew their guns as well. PO Fenton denied pointing his gun at any individual other than § 87(2)(b). He specifically denied pointing his gun at any individual's head (BR 03).

Both Sgt. Cheesewright and PO Oneill denied drawing their guns during this incident. Sgt. Cheesewright testified that he observed all three of his partners to have their guns drawn as they approached. PO Oneill testified that he only observed PO Fenton to have his gun drawn. He could not tell where PO Fenton's gun was pointed. He denied observing Sgt. Cheesewright or PO Griffith to have their guns drawn. Both denied observing any officer point their gun specifically at any individual's head (BR 05, 06).

If reasonable under the circumstances, protective measures to ensure officers' safety including approaching a suspect with their weapons drawn is justified. People v. Finlayson 76 A.D. 2d 670 (BR 07).

§ 87(2)(g), § 87(2)(e), § 87(2)(f)

Allegation (Q) Force: An officer pointed his gun at § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that an officer approached § 87(2)(b) with two guns draw, one in each hand, and pointed both guns at § 87(2)(b)'s head.

Both § 87(2)(b) and § 87(2)(b) testified that soon after the officers approached an officer drew two guns, one in each hand. Upon reaching § 87(2)(b) that officer pointed both guns at § 87(2)(b)'s head (BR 01, 02).

§ 87(2)(b) testified that he could not provide any physical description of the officer who allegedly pointed two guns at § 87(2)(b)'s head. § 87(2)(b) described this subject officer as male, black, 5'9" tall, muscular build, short black hair, full beard, mid-30s, in plainclothes, black t-shirt, blue jeans. The officer § 87(2)(b) described, was identified by the investigation as PO Fenton.

All of the officers denied carrying two firearms and denied being aware of any of their partners doing so. In addition, all denied pointing either one or two guns at the heads of any individuals (BR 03, 04, 05, 06).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegation (R) Abuse of Authority: Police Officer Gerard Fenton searched § 87(2)(b)'s bag.

Allegation (S) Abuse of Authority: Police Officer Gerard Fenton searched § 87(2)(b)'s bag.

§ 87(2)(b) alleged that PO Fenton emptied the contents of two bags, one belonging to § 87(2)(b) and the other belonging to § 87(2)(b).

§ 87(2)(b) alleged that, after all the individuals were on the ground, PO Fenton approached two backpacks that were located near the stoop of 223 Bainbridge Street. PO Fenton poured the contents of both bags out. § 87(2)(b) testified that the bags contained construction supplies such as hard hats, sheet rock, and paint (BR 02).

PO Fenton testified that § 87(2)(b) had been holding a True Religion shopping bag, which he dropped while the officers were approaching him. PO Fenton testified that he did not recall there being any other bags on scene. He also testified that he did not recall looking in any other bags on scene (BR 03).

PO Griffith testified that, in addition to the True Religion shopping bag, he observed one backpack on scene. He described it as a black leather backpack located on the sidewalk near the stoop of 223 Bainbridge Street. He did not observe any officer open or search this bag (BR 04).

Both Sgt. Cheesewright and PO Oneill testified that they could not recall there being any additional bags on scene. They both denied observing any officer open or search any bags while on scene (BR 05, 06).

§ 87(2)(g)

Allegation (T) Discourtesy: Sergeant David Cheesewright spoke discourteously to § 87(2)(b)

Allegation (U) Abuse of Authority: Sergeant David Cheesewright threatened to arrest

§ 87(2)(b)

§ 87(2)(b) alleged that an officer threatened to arrest § 87(2)(b) and used discourteous language.

§ 87(2)(b) alleged that PO Griffith was the subject of these allegations. However, in an unverified telephone statement, provided by § 87(2)(b) on October 26, 2017, § 87(2)(b) described the subject officer of this allegation as male, light-skin, heavysset, black/Hispanic, 6'0" tall, late 40s, black curly hair. The investigation finds that this description fits Sgt. Cheesewright's pedigree. Thus, these allegations are pled against him (BR 01).

§ 87(2)(b) testified that while he and the other civilians were on the ground, § 87(2)(b) came out of in 225 Bainbridge Street. § 87(2)(b) asked what was going on and an officer stated to her, "Do you want to take the fucking charge for the gun?" He then repeated that statement as second time.

In her unverified telephone statement, § 87(2)(b) stated that Sgt. Cheesewright stated to her, "If you're not quiet, we'll charge you with it[referring to the gun in the bag he was holding]. Do you want to take the charge?" (BR 08).

Sgt. Cheesewright testified that he could not recall any female relatives of § 87(2)(b) on scene. He specifically denied stating, "Do you want to take the fucking charge?" nor anything to that effect. Sgt. Cheesewright denied using profanity while on scene (BR 05).

PO Griffith testified that during the incident, § 87(2)(b) who he believed to be § 87(2)(b) grandmother, approached him and asked what was going on. PO Griffith explained that § 87(2)(b) was being arrested for possession of a firearm. PO Griffith denied asking § 87(2)(b) if she wanted to take the gun charge or cursing at § 87(2)(b). He also denied hearing any other officer do so. PO Griffith did not know if any of his partners spoke to § 87(2)(b) (BR 04).

PO Fenton testified that § 87(2)(b) approached the police vehicle after § 87(2)(b) had been placed inside. § 87(2)(b) was asking questions out loud regarding why § 87(2)(b) was under arrest. He testified that he did not speak to her and did not know if his partners did. He denied hearing any officer ask if she wanted to take the gun charge or curse at her (BR 03).

PO Oneill testified that after § 87(2)(b) was placed in handcuffs, § 87(2)(b) approached the area and asked what was going on. PO Oneill explained to her what was found and why § 87(2)(b) was under arrest. He testified that his partners were in the immediate vicinity during this interaction but that only he spoke to § 87(2)(b). PO Oneill denied asking § 87(2)(b) if she wanted to take the gun charge and denied cursing at § 87(2)(b). PO Oneill denied hearing any other officer do so (BR 06).

§ 87(2)(g)

Allegation (V) Abuse of Authority: Police Officer Christopher Griffith frisked § 87(2)(b)

Allegation (W) Abuse of Authority: Police Officer Christopher Griffith frisked § 87(2)(b)

Allegation (X) Abuse of Authority: Police Officer Christopher Griffith searched § 87(2)(b)

Allegation (Y) Abuse of Authority: Police Officer Christopher Griffith questioned § 87(2)(b)

Allegation (Z) Abuse of Authority: Police Officer Christopher Griffith frisked § 87(2)(b)

Allegation (2A) Abuse of Authority: Police Officer Christopher Griffith searched § 87(2)(b)

Allegation (2B) Abuse of Authority: Sergeant David Cheesewright frisked § 87(2)(b)

Allegation (2C) Abuse of Authority: Sergeant David Cheesewright frisked § 87(2)(b)

It is undisputed that Sgt. Cheesewright frisked two individuals, PO Griffith frisked three individuals, and that PO Griffith searched two individuals. § 87(2)(g)

§ 87(2)(b) testified that once he got onto the ground, PO Griffith patted the outside of § 87(2)(b) rear pockets. PO Griffith then reached inside of each of his rear pockets. PO Griffith then rolled § 87(2)(b) over and patted the outside of § 87(2)(b) two front pants pockets then reached inside those as well. While reaching into one of § 87(2)(b) pockets, PO Griffith removed § 87(2)(b) identification. While this search was going on, PO Griffith asked § 87(2)(b) “Where are the guns and the drugs?” § 87(2)(b) later observed an officer reach inside § 87(2)(b) s rear pants pockets and flip them inside out (BR 02).

§ 87(2)(b) testified that once § 87(2)(b) was on the floor, PO Griffith approached and patted the outside of § 87(2)(b) front two pants pockets. § 87(2)(b) did not see PO Griffith do

anything else with § 87(2)(b). A short while later, Sgt. Cheesewright approached § 87(2)(b) and stood him up by pulling on his t-shirt. Sgt. Cheesewright then patted the outside of § 87(2)(b)'s front two pants pockets (BR 01).

Though § 87(2)(b) identified PO Griffith, by physical description, as the officer that frisked him, § 87(2)(b)'s description of the timing of the frisk and the frisk itself aligns precisely with that of Sgt. Cheesewright. In addition, PO Griffith described the only individual that he frisked but did not search, as having dreadlocks, which does not align with § 87(2)(b)'s hairstyle. Finally, PO Griffith was presented with a photograph of § 87(2)(b) during his CCRB interview and stated that § 87(2)(b) was not one of the individuals that he frisked. Thus, the frisk of § 87(2)(b) is being pled against Sgt. Cheesewright. PO Griffith also testified that the first individual he frisked had dreadlocks, fitting the description provided of § 87(2)(b). He is therefore being pled as the victim in PO Griffith's first frisk. As no identifying information was obtained for § 87(2)(b) or § 87(2)(b), no statement could be obtained from those individuals. As such, it could not be verified which one was the specific victim of allegations X and 2C. As those frisks are undisputed based on PO Griffith's and Sgt. Cheesewright's testimony, those allegations are being pled with § 87(2)(b) as the victim.

PO Griffith testified that when he approached the individuals on the ground, he initially approached one individual, identified by the investigation as § 87(2)(b) who had gone to the ground next to the fenced in tree on the sidewalk. Immediately after approaching, PO Griffith patted the outside of § 87(2)(b)'s waist and rear pockets. PO Griffith then rolled § 87(2)(b) over and patted the outside of his pockets. PO Griffith testified that he frisked § 87(2)(b) because he wanted to make sure he was not carrying a weapon. PO Griffith testified that there was no indication that § 87(2)(b) was carrying a weapon and that he did not in fact believe that § 87(2)(b) was armed. PO Griffith then approached a second individual, identified by the investigation as § 87(2)(b) who was lying on the sidewalk nearest to the stoop. PO Griffith observed a bulge in one of the rear pockets of the individual. PO Griffith could not recall which rear pocket. He described the bulge as being approximately five inches by five inches and a rectangle or square shape. PO Griffith believed that it was a gun because of the size and shape of the bulge. PO Griffith patted the outside of the bulging pocket and felt it to be hard and still believed that it could have been a gun. PO Griffith then reached inside the pocket and removed tissues and papers. PO Griffith then reached inside § 87(2)(b)'s other rear pocket as well. PO Griffith then rolled § 87(2)(b) onto his back and touched the outside of his front two pants pockets before reaching inside. PO Griffith testified that he reached inside § 87(2)(b)'s other rear pant pocket to make sure that there were no smaller weapons such as a knife. When asked if he thought such a weapon could have been on § 87(2)(b)'s person, PO Griffith testified that he observed bulges in each of § 87(2)(b)'s pockets. PO Griffith described the bulges as smaller than the one he had originally observed but testified that he could not describe these additional bulges any further. When he frisked § 87(2)(b)'s front two pants pockets, he testified that it felt like papers and a plastic bag. He testified that he then reached inside in order to make sure that there were no smaller weapons present. PO Griffith then approached a third individual who was on his stomach on the sidewalk. PO Griffith patted the outside of that individual's rear pants pockets. He then rolled the individual onto his back and patted the outside of his front pants pockets. PO Griffith testified that he felt items inside the pockets but nothing that made him think a weapon was present. PO Griffith reached inside each of this individual's pants pockets and

removed smaller items such as lighter but no weapons. PO Griffith testified that he frisked this individual to see if he had any smaller weapons such as a knife or blade. He did not observe anything that led him to believe that this individual might have any weapons. PO Griffith testified that he reached inside the individual's pockets to further make sure that he was not armed with smaller weapons (BR 04).

Sgt. Cheesewright testified that, after he recovered the bag containing the gun, he approached § 87(2)(b) identified as § 87(2)(b) who was still lying on the sidewalk. Sgt. Cheesewright stood § 87(2)(b) up and then patted the outside of § 87(2)(b)'s waist, arms, legs, chest, and back. Sgt. Cheesewright testified that he frisked § 87(2)(b) for his safety and that of his partners. He testified that because a gun had been recovered on scene he wanted to make sure that there were no additional weapons on scene. Sgt. Cheesewright did not observe anything that led him to believe that § 87(2)(b) was armed. Nor did he observe any bulges on § 87(2)(b)'s person. Sgt. Cheesewright testified that he did believe that § 87(2)(b) might be armed because he was in the proximity of the discovered gun. There was no additional reason he believed § 87(2)(b) to be armed. Sgt. Cheesewright then assisted a second individual in standing up and conducted an identical frisk of that individual. Sgt. Cheesewright did not make any observations that suggested this individual was armed. He believed he might be because of his proximity to the discovered gun (BR 05).

PO Oneill testified that it was his understanding that the other individuals on scene were searched by his partners, however he did not observe this to have actually occurred. PO Oneill testified that he did not observe what his partners were doing because his attention was focused on § 87(2)(b). He testified that it was his understanding based on the discovered gun (BR 05).

PO Fenton testified that he did not know if the individuals on scene were frisked or searched. He testified that he was not paying attention to what his partners were doing because his attention was focused on § 87(2)(b) (BR 03).

A frisk requires reliable knowledge of facts providing reasonable basis for suspecting that the individual to be subjected to that frisk is armed and may be dangerous. People v. Russ 61 N.Y. 2d 693 (BR 09). Once a police officer knows a bulge is not a weapon, he has not right to continue the search. People v. McGriff 99 A.D.2d 818 (BR 10).

§ 87(2)(g), § 87(2)(e), § 87(2)(f)

[REDACTED]

§ 87(2)(g)

Allegation (2D) Force: Police Officer Gerard Fenton used physical force against § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that PO Fenton used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Fenton approached him while he was lying on his stomach. § 87(2)(b) testified that he was still immediately next to the iron tree fence. PO Fenton placed his foot on top of § 87(2)(b)'s back then lowered his knee into § 87(2)(b)'s back causing pain. § 87(2)(b) testified that he was not doing anything physically prior to or after PO Fenton placed his knee on § 87(2)(b). § 87(2)(b) testified that this actions caused continuing pain in his lower back which he went to the hospital for on September 19, 2017 (BR 01).

§ 87(2)(b)'s medical records, generated from § 87(2)(b), indicate that § 87(2)(b) complained of back pain resulting from his interaction with the police. Scans were taken of his back and no damage was noted (Medical Records).

§ 87(2)(b) testified that, while § 87(2)(b) was on his stomach, PO Fenton approached and placed his knee on § 87(2)(b)'s lower back (BR 02).

PO Fenton testified that he could not recall if he placed his knee on any individual on scene. He testified that his only interaction was with § 87(2)(b) (BR 03).

None of the officers observed PO Fenton or any other officer place his knee into any individual's back (BR 04, 05, 06).

§ 87(2)(g)

Allegation (2E) Force: Officers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that an officer used physical force against § 87(2)(b) while he was seated in the police vehicle.

§ 87(2)(b) testified that after § 87(2)(b) was placed in the police vehicle, officers were striking § 87(2)(b) around his shoulder and neck. § 87(2)(b) couldn't tell which officers it was that were striking § 87(2)(b) nor the number of times they struck § 87(2)(b) (BR 01).

All of the officers testified that § 87(2)(b) was placed into their unmarked police vehicle and transported back to the stationhouse. PO Griffith testified that he rode with a marked unit back to

the stationhouse while his partners transported § 87(2)(b) All of the officers denied striking § 87(2)(b) or using any physical force against § 87(2)(b) while in the police vehicle (BR 03, 04, 05, 06).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) have been a party (BR 11).
§ 87(2)(b)
§ 87(2)(b)
- PO Griffith has been a member of service for six years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Oneill has been a member of service for six years and has been a subject in four CCRB complaints and eight allegations, of which one was substantiated:
 - Case #201410262 involved a substantiated allegation of detainment. The Board recommended charges and the NYPD imposed a reprimand.
- PO Fenton has been a member of service for six years and has been a subject in six CCRB complaints and ten allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Cheesewright has been a member of service for 26 years and has been a subject in 25 CCRB complaints and 62 allegations, of which 16 were substantiated:
 - Case #200202002 involved substantiated allegations of physical force, vehicle search, and threat of force. The Board recommended charges and the NYPD disposition was not guilty and no punishment was imposed.
 - Case #200202912 involved substantiated allegations of question and/or stop, frisk and/or search, vehicle stop, and refusal to provide name/shield number. The Board recommended charges and the NYPD imposed instructions.
 - Case#200205206 involved substantiated allegations of frisk and/or search, vehicle stop, vehicle search, and retaliatory summons. The Board recommended charges and the NYPD dismissed the charges.
 - Case #200600042 involved substantiated allegations of gun drawn, premises entered and/or searched, and property damaged. The Board recommended charges and the NYPD took no disciplinary action.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.

- As of March 29, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 13).

§ 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c) [Redacted]
[Redacted]
2 [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad No.: 15

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date